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UNCLAS SECTION 01 OF 02 ABU DHABI 000813

SIPDIS

DEPARTMENT FOR EEB/IFD/OIA: HGOETHERT

E.O. 12958: N/A

TAGS: CASC EINV KIDE OPIC PGOV

SUBJECT: UAE 2008 REPORT ON INVESTMENT DISPUTES AND EXPROPRIATION CLAIMS

REF: SECSTATE 00043784

¶1. (U) Pursuant to the requirements of Section 527 of the FY 94-95 Foreign Relations Authorization Act (FRAA), Embassy Abu Dhabi has compiled a list of U.S. citizen expropriation claims and investment disputes involving the Government of the United Arab Emirates. The Embassy is currently aware of three (3) claims of United States persons against an Emirate-Level Government. Please see paras. 2-5 for details of these claims. The information is business proprietary.

¶2. a. Claimant A

b. 2005

c. Claimant A originally informed the Embassy of an issue of non-payment to U.S. pharmaceutical companies by the United Arab Emirates (UAE) Ministry of Health in May 2005. At that time, Claimant A requested no Embassy involvement. Subsequently, in May 2006, Claimant A requested U.S. Embassy assistance. The Embassy facilitated contacts with both the Ministry of Finance and the Ministry of Health. As of early July 2007, Embassy understood from Claimant A that almost all payments have been made. One U.S. pharmaceutical company is still pursuing payment on about USD 3 million in older claims and has made some progress. The Embassy continues to try and mediate. As of early June 2008, this issue is still pending.

¶3. a. Claimant B

b. 2005

c. Claimant B signed an agreement for a property development with a Government of Dubai investment company in July 2005 and made an initial payment of USD 2.7 million. On October 13, 2005, Claimant B approached the Consulate General to seek assistance in obtaining an extension of time to make a second payment of USD 25 million on the land. The Consul General obtained two extensions to October 27, 2005. Claimant B did not make the payment by October 27, 2005. Claimant B subsequently contended that the Dubai company was aware that there was a protected archeological site on the property that Claimant B was not made aware of until later in the project. The question of payment, therefore, was dependent on satisfactory resolution of the archeological site issue. The Dubai company contends the archeological site was not an issue when Claimant B failed to make the payment. At some point, the Dubai company advised Claimant B that it was in violation of the terms of the contract as a result of nonpayment and terminated the agreement. In May 2006, Claimant B met with the Dubai company and discussed alternative sites and price reduction as a means of compensation.

The Embassy and Consulate General have made repeated efforts to mediate between Claimant B, the Dubai company, and the Dubai Government and to urge the Dubai Government to negotiate a settlement. The Ambassador has raised the issue with Dubai Ruler/UAE Vice President Sheikh Mohammed bin Rashid Al-Maktoum on behalf of Claimant B and the Consul General and Ambassador have raised repeatedly the issue with senior Dubai government officials.

The issue has also been raised in meetings with UAE Government officials in the context of ongoing trade discussions.

The Executive Chairman of the Dubai company told Embassy in July 2005 that Claimant B violated its contract, and that Claimant B should pursue its claims through the court system, which continues to be the position of the Dubai company. As of June 2008, Claimant B has taken the case to international arbitration.

¶4. a. Claimant C

b. 2005

c. Claimant C is an American citizen member of a financial advisory company registered to do business in Dubai. In July 2004, Claimant C contracted to act as a financial advisor to another non-U.S. company for all matters related to a development consultancy agreement with the Dubai Municipality. In November 2004, the company entered into a consultancy agreement with the Dubai Municipality regarding the Dubai Light Rail Transit (LRT) system, including the marketing of at least 22 plots of land adjacent to the proposed path of the LRT, development of investment strategies, and raising funds to finance the project. In October 2005, Claimant C and other non-U.S. citizen company officers (a UK national, a Sri Lankan, and an Emirati) were detained by Dubai police for interrogation on verbal accusations of misrepresentation, fraud, and bribery. Claimant C claims he was coerced into transferring USD 4.5 million to Dubai police and to write a post-dated check of USD 6 million (which equaled the payments he had received for his work on the LRT). He was released from detention after 17 days, but his passport was confiscated. He was arrested again in May 2006 and held for a further nine days. The Dubai RTA, which took over the

ABU DHABI 00000813 002 OF 002

responsibilities of the Dubai Municipality with regard to the LRT, notified the Company of its decision to terminate the Development Consultancy Agreement, which led to a failure of the company to make payments to Claimant C.

Claimant C and the non-U.S. company have been represented by at least two attorneys in Dubai and by a prominent American law firm based in Washington, DC. In addition, there has been extensive intervention by Embassy, Consulate General, and Department officials in an attempt to bring the case to a resolution. Claimant C has also been represented by a U.S. law firm. In March 2007, Claimant C's U.S. passport was returned and he was allowed to leave the country, but has subsequently returned to Dubai to pursue other business interests. Although the dispute appears to be settled, the Embassy has no information on the details of the financial settlement although the company partners are reported to have re-incorporated their organization in the United States.

¶5. Claimant A -- Pharma Gulf with the one remaining U.S. company being Pfizer; Claimant B -- Capital Partners/McKinley Reserve; Claimant C -- Vafa Valapour

¶6. Post's temporary point of contact for these matters will be TDY ECONOFF Rachel Owen at owenRE@state.gov. ECONCHIEF Susannah Cooper will be arriving at post on September 1 and will take over reporting responsibility for these matters.

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